

# STATE OF COLORADO

## Colorado General Assembly

Mike Mauer, Director  
Legislative Council Staff

**Colorado Legislative Council**  
200 East Colfax Avenue Suite 029  
Denver, Colorado 80203-1716  
Telephone 303-866-3521  
Facsimile 303-866-3855  
TDD 303-866-3472



Sharon L. Eubanks, Deputy Director  
Office of Legislative Legal Services

**Office of Legislative Legal Services**  
200 East Colfax Avenue Suite 091  
Denver, Colorado 80203-1716  
Telephone 303-866-2045  
Facsimile 303-866-4157  
Email: olls.ga@state.co.us

## MEMORANDUM

**TO:** Daniel Hayes and Julianne Page

**FROM:** Legislative Council Staff and Office of Legislative Legal Services

**DATE:** September 8, 2017

**SUBJECT:** Proposed initiative measure 2017-2018 #47, concerning the Colorado Growth Initiative

Section 1-40-105 (1), Colorado Revised Statutes, requires the directors of the Colorado Legislative Council and the Office of Legislative Legal Services to "review and comment" on initiative petitions for proposed laws and amendments to the Colorado constitution. We hereby submit our comments to you regarding the appended proposed initiative.

The purpose of this statutory requirement of the directors of Legislative Council and the Office of Legislative Legal Services is to provide comments intended to aid proponents in determining the language of their proposal and to avail the public of knowledge of the contents of the proposal. Our first objective is to be sure we understand your intent and your objective in proposing the amendment. We hope that the statements and questions contained in this memorandum will provide a basis for discussion and understanding of the proposal.

Earlier versions of this proposed initiative, proposed initiatives 2017-2018 #3 and 2017-2018 #4, were the subject of memoranda dated August 1, 2016, and November 3, 2016, which were discussed at public meetings on August 8, 2016, and November 11, 2016. The substantive and technical comments and questions raised in this memorandum will not include comments and questions that were addressed at the earlier meetings, except as necessary to fully understand the issues raised by the revised proposed initiative. However, the prior comments and questions that are not restated here continue to be relevant and are hereby incorporated by reference in this memorandum.

## **Purposes**

The major purposes of the proposed amendment to the Colorado Revised Statutes appear to be:

1. To reserve the right to limit housing growth without legislative inhibition or penalty by initiative and referendum;
2. To reserve the right to limit housing growth on a countywide basis whereby electors throughout a county may elect to limit housing growth uniformly in every city, town, city and county, local county, and any part of such, whether statutory or home rule, within such county;
3. To specify that privately owned residential housing growth in the city and counties of Broomfield and Denver and the counties of Adams, Arapahoe, Boulder, Douglas, El Paso, Jefferson, Larimer, and Weld shall not exceed one percent annually for the years 2019 and 2020;
4. To specify that, in specified counties, each local government and any part of such, whether statutory or home rule, shall allot building permits so that housing growth does not exceed a one percent annual growth in the total number of housing units in each specified calendar year; except that, beginning in 2021, such growth limitations may be amended or repealed by initiative and referendum, or otherwise remain in effect;
5. To specify that at least thirty percent of the housing subject to the limitation shall be affordable housing and affordable senior housing;
6. To specify that no permits to build new privately owned residential housing units shall be issued within specified counties, including all local governments contained within or part of specified city and counties; and
7. To implement signature and form and content requirements for initiative and referendum proposals regulating the growth of privately owned residential housing for local governments.

## **Substantive Comments and Questions**

The substance of the proposed initiative raises the following comments and questions:

1. Article V, section 1 (8) of the Colorado constitution requires that the following enacting clause be the style for all laws adopted by the initiative: "Be it Enacted by the People of the State of Colorado:". To comply with this constitutional

requirement, this phrase should be added to the beginning of the proposed initiative.

2. Article V, section 1 (5.5) of the Colorado constitution requires all proposed initiatives to have a single subject. What is the single subject of the proposed initiative?
3. What is the effective date of the proposed initiative?
4. Under section 1-40-105.5, Colorado Revised Statutes, the director of research of the legislative council is required to prepare an initial fiscal impact statement, which includes an abstract that appears on petition sections, for each initiative that is submitted to the Title Board. In preparing the statement, the director is required to consider any fiscal impact estimate prepared by the proponents.
  - a. Will you submit the initiative to the Title Board? If so, when do you intend to do so?
  - b. Are you submitting a fiscal impact estimate today? If not, do you plan to submit an estimate in the future, and if so, when do you intend to do so?
  - c. To ensure that there is time for consideration, you are strongly encouraged to submit your estimate, if any, at least 12 days before the measure is scheduled for a Title Board hearing. The estimate should be submitted to the legislative council staff at [BallotImpactEstimates.ga@state.co.us](mailto:BallotImpactEstimates.ga@state.co.us).
5. In the Colorado Revised Statutes, the term "county clerk" is referred to as the "county clerk and recorder".
6. Would the proponents like to designate placement for the text of the proposed initiative in the Colorado Revised Statutes?
7. Are the proponents aware that, if the proposed initiative were to become part of the statutory law of the state, its text could be modified by the Colorado General Assembly by regular statutory enactment?
8. With respect to subsection (5)(a) of the proposed initiative, what does it mean for the growth regulation proposals on a countywide basis to "include the summation of such requirement from each local government and any part of a local government not governed within such county accumulated for the total signature requirement as determined by the county clerk"?

9. In subsection (5)(d) of the proposed initiative, do you mean to say "within ten business **days**" (emphasis added)? Please consider revising to clarify the intended time.

## Technical Comments

The following comments address technical issues raised by the form of the proposed initiative. These comments will be read aloud at the public meeting only if the proponents so request. You will have the opportunity to ask questions about these comments at the review and comment meeting. Please consider revising the proposed initiative as suggested below.

1. Before the amending clause, number each section, part, etc. that is being amended or added with a section number (e.g., **SECTION 1.**, **SECTION 2.**). For example:

**SECTION 1.** In Colorado Revised Statutes, **add** 39-22-510 as follows:

2. Each constitutional and statutory section being amended, repealed, or added is preceded by a separate amending clause explaining how the law is being changed. For example, if you intend to add a new article to title 39 of the Colorado Revised Statutes, you would include the following amending clause: "In Colorado Revised Statutes, **add** article \_\_ to title 39 as follows:".
3. Each section in the Colorado Revised Statutes and the Colorado constitution has a headnote. Headnotes briefly describe the content of the section. A headnote should be added to the proposed initiative and be in bold-face type.
4. In subsection (5)(a) of the proposed initiative, the comma after "amending" seems unnecessary since it's not setting off any introductory, parenthetical, or prepositional phrases.
5. It is standard drafting practice to include definitions at the beginning of the statutory section rather than the end. Please consider reordering the subsections so that the definitions section currently in subsection (7) is moved to subsection (1).